

ESTTA Tracking number: **ESTTA351176**Filing date: **06/04/2010**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Formatic Xpressions LLC		
Entity	Limited Liability Company	Citizenship	New Jersey
Address	160 Jefferson Dr. Ocean, NJ 07712 UNITED STATES		

Attorney information	Thomas P. Philbrick ALLMARK TRADEMARK 4041 Sugar Maple Dr., Suite A Danville, CA 94506 UNITED STATES tom@allmarktrademark.com, allmarktrademark@gmail.com Phone:(925)648-4839
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Registration Subject to Cancellation

Registration No	2542903	Registration date	02/26/2002
Registrant	DALPS & LEISURE PRODUCTS SUPPLY CORPORATION 10F-1 & 10F-2, NO. 130, SEC. 2 CHUNG HSIAO E. RD. TAIPEI, TAIWAN		

Goods/Services Subject to Cancellation

Class 028. First Use: 2001/03/06 First Use In Commerce: 2001/03/06
All goods and services in the class are cancelled, namely: EXERCISE EQUIPMENT, NAMELY, STATIONARY EXERCISE BIKES, WEIGHT LIFTING BENCH, TREADMILLS, DUMBBELLS, BARBELLS, BODY-TRAINING APPARATURES, ALL PURPOSE PROTECTIVE PADDING FOR SPORTS AND FITNESS ACCESSORIES

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
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Attachments	Petition to cancel IRON BODY.pdf (8 pages)(338325 bytes) Exhibit A to IRON BODY cancellation.pdf (6 pages)(269586 bytes) Exhibit B to IRON BODY cancellation.pdf (2 pages)(84064 bytes) Exhibit C to IRON BODY cancellation.pdf (6 pages)(1025935 bytes) Exhibit D to IRON BODY cancellation.pdf (2 pages)(776999 bytes) Exhibit E to IRON BODY cancellation.pdf (1 page)(314733 bytes) Exhibit F to IRON BODY cancellation.pdf (2 pages)(130005 bytes) Certificate of Service IRON BODY cancellation.pdf (1 page)(22819 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Thomas P. Philbrick/
Name	Thomas P. Philbrick
Date	06/04/2010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Registration No. 2,542,903

Registered on February 26, 2002

Formatic Xpressions LLC

Petitioner,

v.

DALPS & LEISURE PRODUCTS SUPPLY
CORPORATION

Respondent.

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) Cancellation No. _____
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Trademark Trial and Appeal Board
United States Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION TO CANCEL

Formatic Xpressions LLC, a limited liability company legally organized under the laws of New Jersey, with a principal place of business of 160 Jefferson Dr., Ocean, NJ 07712, ("Petitioner"), hereby believes that it is being damaged by registration of the mark IRON BODY (stylized words/design mark) in International Class 28 shown in Registration No. 2,542,903, and hereby petitions to cancel the same.

As grounds for cancellation, it is alleged that:

1. DALPS & LEISURE PRODUCTS SUPPLY CORPORATION, a corporation of Taiwan (hereinafter "Respondent") is the current listed owner of record of the mark IRON BODY (stylized words/design mark) as identified in U.S. Reg. No. 2,542,903 registered in

connection with “EXERCISE EQUIPMENT, NAMELY, STATIONARY EXERCISE BIKES, WEIGHT LIFTING BENCH, TREADMILLS, DUMBBELLS, BARBELLS, BODY-TRAINING APPARATURES, ALL PURPOSE PROTECTIVE PADDING FOR SPORTS AND FITNESS ACCESSORIES,” in International Class 28. Respondent’s last known address of record as indicated on the USPTO’s TARR database is 10F-1 & 10F-2, NO. 130, SEC. 2 CHUNG HSIAO E. RD., Taipei, Taiwan.

2. Petitioner is the owner of the intent to use [Section 1(b)] trademark application filed under International Classes 25 and 28 for the mark IRON BODY (U.S. Serial Number 77709178) filed in connection with “Clothing, namely, shirts, t-shirts, sweatshirts, sweatpants, headwear, and martial arts uniforms,” in International Class 25, and “Martial arts equipment, namely, punching bags, bag gloves and hand wraps,” in International Class 28. Petitioner filed Serial Number 77709178 at the USPTO on April 7, 2009.

3. On December 15, 2009, a USPTO Examining Attorney issued a FINAL refusal of Petitioner’s IRON BODY application (Serial No. 77709178) based on a Section 2(d) refusal due to Respondent’s registered mark IRON BODY as identified in U.S. Registration No. 2,542,903. The Examining Attorney rejected Petitioner’s arguments submitted against the Section 2(d) refusal and submitted that among other reasons, “Respecting the conflict, it cannot be again said that the IRON BODY mark of the application is different in any legally significant regard from the registered mark. Each is made up of just two four letter words. They are easy to say and easy to remember. Both conjure an image of a trained athlete, ripped and ready for competition..” [See FINAL office action for serial number 77709178 issued on December 15, 2009] In view of the grounds set forth in the following paragraphs, Petitioner has standing to file this cancellation as the registration of its IRON BODY mark in Classes 25 and 28 (as identified

in Serial Number 77709178) will be refused and abandoned (causing irreparable damage and injury to Petitioner) if Reg. No. 2,542,903 for the mark IRON BODY is not successfully cancelled.

4. If Respondent's registration is not successfully cancelled, Respondent will continue to own the *prima facie* exclusive right to use the IRON BODY mark in Class 28 in connection with goods that the Examining Attorney has deemed "confusingly similar" to Petitioner's class 25 and 28 goods. Such a registration is a source of damage and injury to Petitioner as it will prevent the USPTO from issuing a registration to Petitioner for its IRON BODY mark. (Serial number 77709178)

5. On March 15, 2001, Respondent submitted a sworn declaration with its application signed by its President, Lawrence Hao, to the USPTO for application Serial number 76235421 in which it stated that "I believe Applicant to be the owner of the mark sought to be registered, and the mark is in use in commerce..." This statement left Respondent declaring use in commerce for all of the goods in the application as originally filed, namely, "Exercise equipment, namely, stationary exercise bikes, weight lifting bench, treadmills, dumbbells, barbells, body-training apparatuses, all purpose protective padding for sports and fitness accessories." [Copy of Respondent's application serial number 76235421 including the signed declaration of its corporate president is attached as "**Exhibit A**"]

6. Based on detailed information obtained from The Marksmen (a private investigation firm) Petitioner alleges that Respondent is not using, and has never used the IRON BODY mark in commerce in connection with any of the goods outlined in Reg. No. 2,542,903. [Copy of recent Marksmen investigation report attached as "**Exhibit B**."]

7. Based on the Marksmen report evidence, Petitioner alleges that Respondent's application, which indicates that Respondent first used the IRON BODY (stylized words & design) mark in the United States on "EXERCISE EQUIPMENT, NAMELY, STATIONARY EXERCISE BIKES, WEIGHT LIFTING BENCH, TREADMILLS, DUMBBELLS, BARBELLS, BODY-TRAINING APPARATURES, ALL PURPOSE PROTECTIVE PADDING FOR SPORTS AND FITNESS ACCESSORIES" beginning March 6, 2001 is knowingly false (with the specific intent to deceive the USPTO) as Respondent's own company representative confirms that such goods have never been sold in U.S. commerce under Respondent's IRON BODY mark.

8. Based on the Marksmen report evidence, Petitioner alleges that Respondent procured Registration No. 2,542,903 by false means and/or by knowingly, willfully and intentionally making false and/or fraudulent declarations or representations to the USPTO (with the specific intent to deceive the USPTO) including, falsely alleging in the original application filed on April 4, 2001 that Respondent's first use of the mark was on March 6, 2001 for all goods listed therein when in fact, Respondent had not commenced usage of the mark in U.S. commerce at all for any of the goods listed in the application.

9. Based on the Marksmen report evidence, Petitioner alleges that Respondent knew at the time it filed its Section 1(a) "in use" application that matured into in Reg. No. 2,542,903 that it had not used the IRON BODY mark in U.S. commerce on or in connection with any of the goods declared in use via the declaration signed by its president on March 15, 2001, thus evidencing a specific intent on the part of Respondent to fraudulently deceive the USPTO into granting it a registration.

10. Based on the Marksmen report evidence, Petitioner alleges that said false statements made by Respondent were made with the fraudulent specific intent to induce the USPTO to grant trademark Reg. No. 2,542,903, and reasonably relying upon the truth of Respondent's statements, the USPTO did in fact grant registration to Respondent.

11. Based on the Marksmen report evidence, Petitioner alleges that Respondent knowingly committed fraud in the procurement of Reg. No. 2,542,903 for the mark IRON BODY as it (via its corporate president) made material representations of fact in its declarations (both in the original application and subsequent Section 8 filing) that its president and attorney knew to be false or misleading.

12. On February 25, 2008, Respondent submitted a sworn Section 8 "Declaration of Use of Mark in Commerce," that was signed by Respondent's attorney, Bruce H. Troxell, to the USPTO for registration number 2,542,903, in which it stated in part that "the mark is in use in commerce on or in connection with **all** goods or services listed in the existing registration for this specific class..." [Copy of Respondent's Section 8 filing is attached to this Cancellation as "**Exhibit C**"] This statement in the declaration amounted to the Respondent declaring use in commerce for the IRON BODY registration in connection with "EXERCISE EQUIPMENT, NAMELY, STATIONARY EXERCISE BIKES, WEIGHT LIFTING BENCH, TREADMILLS, DUMBBELLS, BARBELLS, BODY-TRAINING APPARATURES, ALL PURPOSE PROTECTIVE PADDING FOR SPORTS AND FITNESS ACCESSORIES," in International Class 28.

13. Based on the Marksmen report evidence, Petitioner alleges that Respondent is not using, and has never used the IRON BODY mark in U.S. commerce in connection with "EXERCISE EQUIPMENT, NAMELY, STATIONARY EXERCISE BIKES, WEIGHT

LIFTING BENCH, TREADMILLS, DUMBBELLS, BARBELLS, BODY-TRAINING APPARATURES, ALL PURPOSE PROTECTIVE PADDING FOR SPORTS AND FITNESS ACCESSORIES” as sworn to in the Section 8 declaration of use filed on February 25, 2008 in connection with Reg. No. 2,542,903.

14. Based on the attached Marksmen report evidence (attached as Exhibit B), Petitioner alleges that prior to the commencement of discovery, it already possesses specific factual information sufficient to sustain this cancellation based on Respondent’s willfully fraudulent IRON BODY Reg. No. 2,542,903. Specifically, based on the detailed information obtained, Petitioner alleges that Respondent’s mark has never been used in the United States for the goods identified therein and was therefore obtained with the specific intent to deceive the USPTO. Furthermore, Petitioner alleges that based on its private investigation efforts, additional confirmation and details of Respondent’s knowingly fraudulent actions are likely to be encountered via discovery.

15. Based on the attached Marksmen report evidence, Petitioner alleges that Respondent specifically intended to obtain registration (and subsequently maintain) Reg. No. 2,542,903 for the mark IRON BODY in bad faith through willfully fraudulent means. Based on facts known to Petitioner via its private investigation, (and through evidence likely to be discovered) Petitioner alleges that Respondent’s efforts to obtain and maintain Reg. No. 2,542,903 were both intentionally and willfully fraudulent and made in bad faith. Based on the facts known to Petitioner, Petitioner alleges that Respondent made such false statements in an effort to obtain an “in gross” trademark without actually having to use the mark in any manner in the U.S. as required by the Trademark Act. Such fraudulent statements made by Respondent permitted it to obtain a certificate of registration (Reg. No. 2,542,903) for the mark IRON BODY. Barring such

knowingly fraudulent statements, Respondent would not have been entitled to registration, given its apparent complete lack of use of the mark in the U.S.

16. Based on the attached website information, Petitioner alleges that Respondent's efforts to merely reserve a right in the IRON BODY mark without any actual use of the mark in U.S. commerce are further evidenced. When the user clicks on the words "Fitness accessories" and/or "Exercise equipments" on the attached Exhibit D, the user is simply redirected to the exact same website link of <http://www.dalps.com/IRON%20BODY.html> without any reference to any of the class 28 goods specified in Reg. No. 2,542,903. Furthermore, when the user clicks on the link www.ironbody.com.tw from Respondent's website, the user is directed to a generic website directory of other providers of goods/services with no relation to Respondent or its registered IRON BODY mark. (copy of landing page for www.ironbody.com.tw is attached as Exhibit E.) Petitioner alleges that based on the attached Exhibit's D and E, further evidence of Respondent's mere intention to reserve a right in its IRON BODY Reg. No. 2,542,903 without actual use in commerce is evidenced.

17. Based on the additional attached website information, Petitioner alleges that Respondent's efforts to merely reserve a right in the IRON BODY mark without any actual use of the mark in U.S. commerce are further evidenced. When the user enters "IRON BODY" into a Google search, nothing relating to Respondent or its registered IRON BODY mark appears in the results. (See attached Exhibit F containing a printout of the 1st two pages of search results) Petitioner alleges that based on the attached Exhibit F, further evidence of Respondent's mere intention to reserve a right in its IRON BODY Reg. No. 2,542,903 without actual use in commerce is evidenced.

18. For the foregoing reasons, Respondent should not be entitled to the continued registration of Reg. No. 2,542,903 for the mark IRON BODY in International Class 28 as it was obtained and maintained by Respondent with the specific and willful intent to commit fraud on the USPTO and obtain an "in gross" trademark without ever putting the mark into use in the U.S. marketplace.

19. Petitioner should not be refused registration at the USPTO for its Serial Number 77709178 (IRON BODY) because of the fraudulently obtained IRON BODY Reg. No. 2,542,903 owned by Respondent.

WHEREFORE, Petitioner prays that this cancellation be granted in its favor and that Reg. No. 2,542,903 for the mark IRON BODY be cancelled in its entirety.

DATED this 4th day of June, 2010.

Respectfully submitted,

Formatic Xpressions LLC

By: 

Thomas P. Philbrick, Esq.

John E. Russell, Esq.

Attorneys for Petitioner

ALLMARK TRADEMARK®
4041 Sugar Maple Dr., Suite A
Danville, CA 94506

Telephone: (925)648-4839

Facsimile: (925)648-4358

Email: tom@allmarktrademark.com

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Mark:	IRON BODY and Design
Class:	28
Attorney's Reference:	TJM/IRON6001USA

COVER LETTER

FOR FILING A NEW TRADEMARK AND/OR SERVICE MARK APPLICATION

**Box NEW APP
FEE**

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Sir:

1. Submitted herewith are the following:
 - a. An application and a Drawing of the mark.
 - b. An EARLY NOTIFICATION OF SERIAL NUMBER postcard.
 - c. A *duplicate copy* of this document. The Commissioner is authorized to charge any U.S. government fees that are required for the present application to receive a filing date, to deposit account no. 02-0200.
 - d. A check in the amount of **\$325.00** to cover the \$325.00 per Int. Class U.S. government fee for at least one Class; 37 C.F.R. §2.21(a)(5).
 - e. Product brochure.
 - f. **One** specimen; 15 U.S.C. §1051(a)(1); 37 C.F.R. §2.34(a)(1)(iv).
2. The official filing receipt should state as follows:
FILING BASIS: Sect. 1(a) (Use in Commerce)

BACON & THOMAS, PLLC
625 Slaters Lane, Fourth Floor
Alexandria, Virginia 22314-1176
Phone: (703) 683-0500

Date: April 4, 2001

Respectfully submitted,



Thomas J. Moore

US PATENT &
TRADEMARK OFFICE

APR -4 P 1:56

MARK FEE PROCESS.
RECEIVED

Exhibit A

U.S. TRADEMARK/SERVICE MARK APPLICATION, PRINCIPAL REGISTER, WITH DECLARATION.	Mark: IRON BODY and Design
	Int. Class No(s). (If known): 28
TO THE ASSISTANT SECRETARY AND COMMISSIONER OF PATENTS AND TRADEMARKS:	
Applicant's Name: DALPS & LEISURE PRODUCTS SUPPLY CORPORATION <i>Quene</i> (President)	
Applicant's Business Address: 10F-1 & 10F-2, NO.130, SEC.2, CHUNG HSIAO E. RD., TAIPEI, TAIWAN, R.O.C.	

1. Applicant's entity is as follows (check one and supply requested information):

- ☐ 1.1 An individual who is a citizen of (country):
- ☐ 1.2 A partnership domiciled in (state and country):
The names and citizenship (country) of the general partners are:
- ☒ 1.3 A corporation of (state or country): TAIWAN, R.O.C.
- ☐ 1.4 Other (specify nature of entity and domicile):

2. Goods/Services: Applicant requests registration of the trademark/service mark shown in the attached drawing (hereinafter referred to as the "mark") in the U.S. Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. 1051 *et seq.*) for the following (list goods/services):

EXERCISE EQUIPMENT, NAMELY, STATIONARY EXERCISE BIKES, WEIGHT LIFTING BENCH, TREADMILLS, DUMBBELLS, BARBELLS, BODY-TRAINING APPARATURES, ALL PURPOSE PROTECTIVE PADDING FOR SPORTS AND FITNESS ACCESSORIES.

(☐ See the attached schedule of goods and/or services.)

3. Basis for application (check one or more, but not both 3.1 and 3.2, and supply information):

- ☒ 3.1 Section 1(a) of the Trademark Act, 15 U.S.C. 1051(a): Applicant has adopted and is using the mark in commerce in the United States on or in connection with the goods/services.

(a) The mark was first used anywhere on a date at least as early as (date) MARCH 6, 2001 for (list good(s)/service(s) for date of first use):

EXERCISE EQUIPMENT, NAMELY, STATIONARY EXERCISE BIKES, WEIGHT LIFTING BENCH, TREADMILLS, DUMBBELLS, BARBELLS, BODY-TRAINING APPARATURES, ALL PURPOSE PROTECTIVE PADDING FOR SPORTS AND FITNESS ACCESSORIES.

(b) The mark was first used in (check one) ☐ interstate commerce or ☒ foreign commerce between the U.S. and (country) TAIWAN on a date as least as early as (date) MARCH 6, 2001 for (list good(s)/service(s) for date of first use in commerce):

EXERCISE EQUIPMENT, NAMELY, STATIONARY EXERCISE BIKES, WEIGHT LIFTING BENCH, TREADMILLS, DUMBBELLS, BARBELLS, BODY-TRAINING APPARATURES, ALL PURPOSE PROTECTIVE PADDING FOR SPORTS AND FITNESS ACCESSORIES.

(c) The ~~three~~ attached specimens for each class show the mark as so used in such commerce;

(d) The mode or manner of use of the mark on or in connection with the goods/services in such commerce is ("advertising" only for classes 35-42):

to be used by directly printed on the catalogues, boxes, and by label affixed to the goods.

- ☐ 3.2 Section 1(b) of the Trademark Act, 15 U.S.C. 1051(b): Applicant has a *bona fide* intention to use the mark in commerce on or in connection with the goods/services. The mode or manner of intended use of the mark on or in connection with the goods/services is ("advertising" only for classes 35-42):

**TRADEMARK/SERVICE MARK APPLICATION,
PRINCIPAL REGISTER, WITH DECLARATION**

Page 2

- ☐ 3.3 Section 44(d) of the Trademark Act, 15 U.S.C. 1126(d): Applicant has a *bona fide* intention to use the mark in commerce on or in connection with the goods/services, and asserts a claim of priority, based upon the earliest filed foreign application(s):

COUNTRY OF APPLICATION(S)	DATE(S) OF FILING	APPLICATION NUMBER(S) (IF KNOWN)

- ☐ 3.4 Section 44(e) of the Trademark Act, 15 U.S.C. 1126(e): Applicant has a *bona fide* intention to use the mark in commerce on or in connection with the goods/services and submits herewith a certified copy of the following registration(s) in applicant's country of origin:

COUNTRY OF REGISTRATION(S)	REGISTRATION NUMBER(S)	DATE(S) OF REGISTRATION

4. Declaration: The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that: I am properly authorized to execute this application on behalf of applicant; if paragraph 3.1 above is completed, then I believe applicant to be the owner of the mark sought to be registered, and the mark is in use in commerce; if any of paragraphs 3.2, 3.3 and 3.4 above are completed, then I believe applicant to be entitled to use the mark in commerce, and applicant has a *bona fide* intention to use the mark in commerce on or in connection with the specified goods/services; if any of paragraphs 3.3 and 3.4 above are completed, then I believe applicant to be the owner of the mark sought to be registered; no other person, firm, corporation or association, to the best of my knowledge and belief, has the right to use such mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; all statements made of my own knowledge are true; and all statements made on information and belief are believed to be true.

5. Power of Attorney: Applicant hereby appoints J. Ernest Kenney, Eugene Mar, Richard E. Fichter, ~~Charles R. Wolfe, Jr., Thomas J. Moore, David E. Dougherty, Bruce H. Troxell~~, all with Bacon & Thomas (address stated below) as applicant's attorneys with full powers of association, substitution, and revocation, to transact all business in the U.S. Patent and Trademark Office associated with the present application, to prosecute the present application, and to receive the certificate of registration. Please address all correspondence as follows:

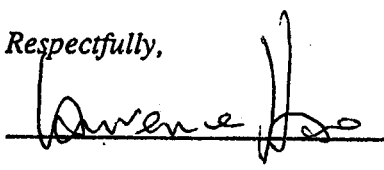
Thomas J. Moore
BACON & THOMAS
625 Slaters Lane, Fourth Floor
Alexandria, Virginia 22314

6. Designation of Domestic Representative: If applicant's business address is not in the United States, then applicant hereby designates Bacon & Thomas (address stated above) as the person on whom may be served notices or process in proceedings affecting the mark, and applicant instructs Bacon & Thomas to take instructions regarding the mark from applicant's agent, who transmits this application to Bacon & Thomas.

Signed this 15th day of March, 2001.

Respectfully,

Name and Title:


LAWRENCE HAO
(President)

* If the applicant is an individual, then the individual should sign. If the applicant is a partnership, then a partner should sign. If the applicant is a corporation, then an officer (president, vice president, secretary, treasurer or equivalent) should sign.

04-04-2001

U.S. Patent & TMOto/TM Mail Ropt Dt. #57

28

DRAWING

Applicant's Name:	DALPS & LEISURE PRODUCTS SUPPLY CORPORATION
Applicant's Address:	10F-1 & 10F-2, NO. 130, SEC. 2 CHUNG HSIAO E. RD. TAIPEI, TAIWAN, R.O.C.
Date of First Use:	MARCH 6, 2001
In Commerce:	MARCH 6, 2001
Goods/Services:	EXERCISE EQUIPMENT, NAMELY, STATIONARY EXERCISE BIKES, WEIGHT LIFTING BENCH, TREADMILLS, DUMBBELLS, BARBELLS, BODY-TRAINING APPARATURES, ALL PURPOSE PROTECTIVE PADDING FOR SPORTS AND FITNESS ACCESSORIES, in Int. Class 28.

Mark:

**IRON
BODY**

PUBLISHED
12/04/01

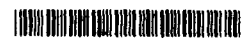
TRADEMARK



76235421

Mark: IRON BODY and Design
U.S. Application filed April 4, 2001

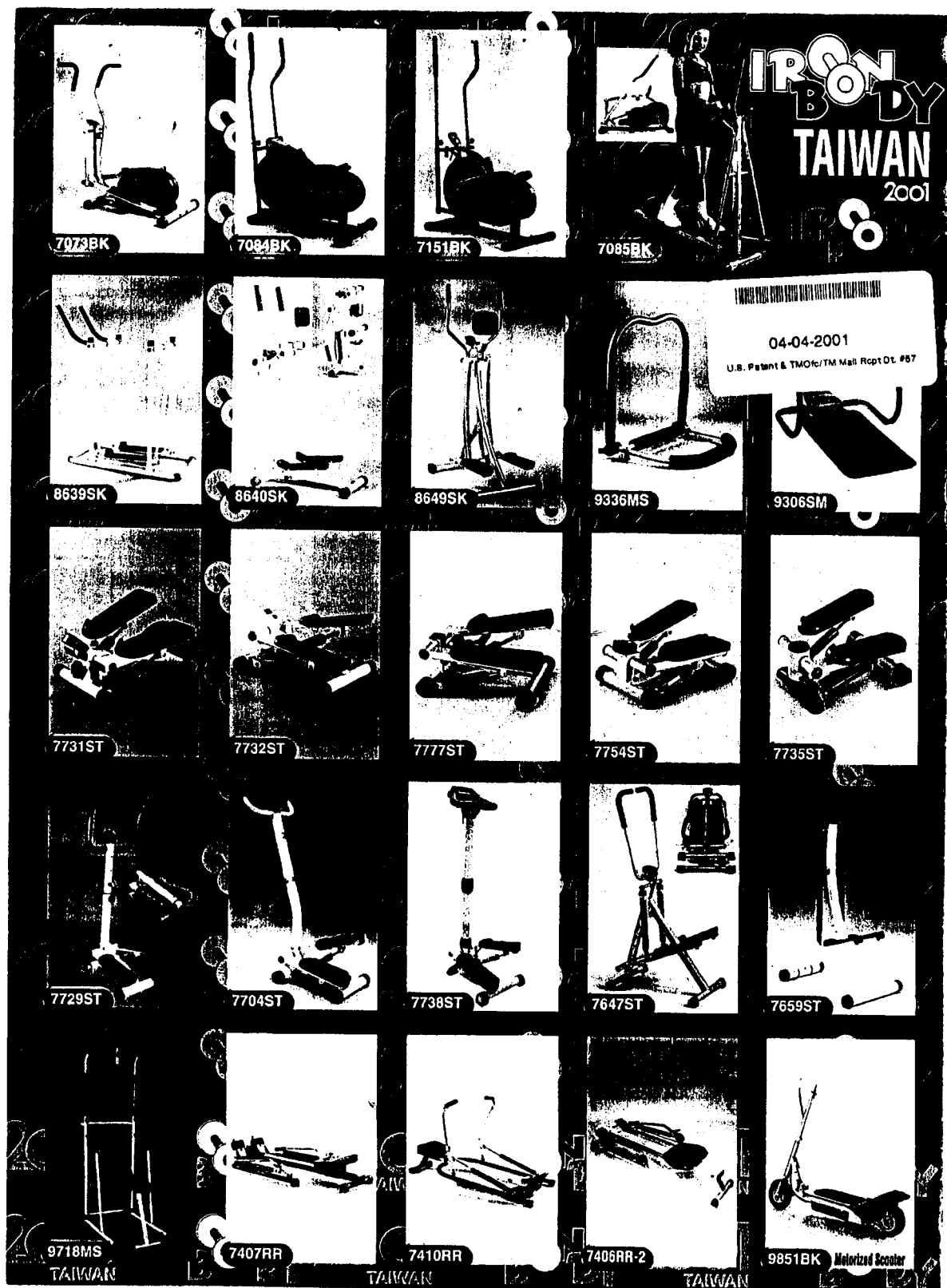
Specimen



04-04-2001

U.S. Patent & TMOfo/TM Mail Ropt Dt. #57

76235421



76235421



PO Box 10038
Glendale, CA 91209

Voice: 800.558.8838
Fax: 888.558.4558

International
Voice: +818.637.8050
Fax: +818.637.8054

www.marksmen.com
License PI 23992

PRIVILEGED AND CONFIDENTIAL

March 29, 2010

Peter Tsakiris
Form X Product Development
160 Jefferson Drive
Ocean, NJ 07712

Re: IRON BODY (& LOGO DESIGN)

Registrant/Company Info: Dalps & Leisure Products Supply Corp

Provided address/phone: 10f-1 & 10f-2, No. 130, Sec. 2 Chung Hsiao E. Rd., Taipei, Taiwan

Client Matter: N/A

File Number: 58339

Dear Peter:

Our office received your request on March 19, 2010, instructing us to investigate the captioned company to determine if it is marketing goods or services using the name IRON BODY (& LOGO DESIGN).

Use claimed on a line of fitness equipment that is not currently sold in the U.S. and has not been sold in the U.S. in the past.

INVESTIGATION CONCLUDED PENDING ADVISEMENT.

Dalps & Leisure Products Supply Corp - 10f-1 & 10f-2, No. 130, Sec. 2 Chung Hsiao E. Rd., Taipei, Taiwan

According to the information you provided, IRON BODY is used by the captioned company and is the subject of USPTO trademark registration (RN 2542903) owned by the captioned company.

Business directories indicate that Dalps & Leisure Products Supply Corporation - 12f-3, 130, Chung Hsiao E. Rd., Sec. 2, Taipei City 10053, Taiwan - tel. - 02 23968235 - 02 23936760 - fax - 02 23960909 - www.dalps.com - was started in 1986, employs 35 people and operates as a wholesaler of sporting and recreation goods. The listed executive is Yung Lin Hao, management executive.

Exhibit B

A web page located at <http://www.dalps.com/IRON%20BODY.html> states:

"IRON BODY" team is not only bringing new products regularly but also designing products / packaging to offer the total solution according to the buyers' requirements, and assisting customers to develop comprehensive product lines.

A search of archived news databases yielded no references to IRON BODY (& LOGO DESIGN) in connection with the captioned company.

We contacted the captioned company – +86 51268835058 – and eventually spoke with Tammy (surname declined), sales representative.

Tammy stated that IRON BODY is the name of a line of fitness equipment, but it is not a brand name currently sold in the United States and that IRON BODY has not been sold in the U.S. in the past.

Tammy declined to provide information regarding all of the countries where IRON BODY is available and requested the name of the country we would like to purchase the product in order for her to determine if IRON BODY is available in that country. Tammy declined to provide any sales information or information regarding what the logo looks like.

Additional calls we made to this company were directed to Tammy.

We sent email to white@dalps.com, the address listed on the web site of the captioned company, but have received no response.

Pending further advisement from you, we have concluded our investigation of IRON BODY (& LOGO DESIGN). If you have further need of our services on this or any other matter, please contact us.

Best Regards,



Kate Schrader

Marksman Contact: Kate Schrader
Email: kschrader@marksmen.com
Phone: 800-558-8838

jjw

Declaration of Use of Mark in Commerce Under Section 8

The table below presents the data as entered.

Input Field	Entered
REGISTRATION NUMBER	2542903
REGISTRATION DATE	02/26/2002
SERIAL NUMBER	76235421
MARK SECTION	
MARK	IRON BODY (stylized and/or with design)
OWNER SECTION (current)	
NAME	DALPS & LEISURE PRODUCTS SUPPLY CORPORATION
STREET	10F-1 & 10F-2, NO. 130, SEC. 2 CHUNG HSIAO E. RD.
CITY	TAIPEI
COUNTRY	Taiwan
ATTORNEY SECTION (current)	
NAME	THOMAS J MOORE
FIRM NAME	BACON & THOMAS PLLC
STREET	625 SLATERS LN FL 4
CITY	ALEXANDRIA
STATE	Virginia
POSTAL CODE	22314-1176
COUNTRY	United States
PHONE	(703) 683-0500
ATTORNEY DOCKET NUMBER	TJM/IRON6001
ATTORNEY SECTION(proposed)	
NAME	Bruce H. Troxell

Exhibit C

FIRM NAME	Troxell Law Office PLLC
STREET	5205 Leesburg Pike, Suite 1404
CITY	Falls Church
STATE	Virginia
POSTAL CODE	22041
COUNTRY	United States
PHONE	(703) 575-2711
FAX	703-575-2707
ATTORNEY DOCKET NUMBER	3105-048
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	028
GOODS OR SERVICES	KEEP ALL LISTED
SPECIMEN FILE NAME(S)	\\TICRS2\EXPORT15\762\354 76235421\xml1\S080002.JPG
SPECIMEN DESCRIPTION	photograph of body training apparatus
PAYMENT SECTION	
NUMBER OF CLASSES	1
NUMBER OF CLASSES PAID	1
SUBTOTAL AMOUNT	100
TOTAL FEE PAID	100
SIGNATURE SECTION	
SIGNATURE	/Bruce H. Troxell/
SIGNATORY'S NAME	Bruce H. Troxell
SIGNATORY'S POSITION	Attorney
DATE SIGNED	02/25/2008
PAYMENT METHOD	DA
FILING INFORMATION	
SUBMIT DATE	Mon Feb 25 10:55:48 EST 2008
	USPTO/SECT08-72.83.177.28

TEAS STAMP

-20080225105548339953-254
2903-400674b1e4dbcc584375
59e9b6564ba1c-DA-13472-20
080225104825570267

PG 1 of 1 (Rev. 5/2/06)
OMB No. 0661-0055 (Ex. 12/31/2011)

**Declaration of Use of Mark in Commerce Under Section 8
To the Commissioner for Trademarks:**

REGISTRATION NUMBER: 2542903

REGISTRATION DATE: 02/26/2002

MARK: IRON BODY (stylized and/or with design)

The owner, DALPS & LEISURE PRODUCTS SUPPLY CORPORATION, having an address of
10F-1 & 10F-2, NO. 130, SEC. 2 CHUNG HSIAO E. RD.
TAIPEI,
Taiwan

is filing a Declaration of Use of Mark in Commerce Under Section 8.

For International Class 028, the mark is in use in commerce on or in connection with **all** goods or services listed in the existing registration for this specific class; or, the owner is making the listed excusable nonuse claim.

The owner is submitting one specimen showing the mark as used in commerce on or in connection with any item in this class, consisting of a(n) photograph of body training apparatus.

Specimen File!

The registrant hereby appoints Bruce H. Troxell of Troxell Law Office PLLC
5205 Leesburg Pike, Suite 1404
Falls Church, Virginia 22041
United States

to file this Declaration of Use of Mark in Commerce Under Section 8 on behalf of the registrant. The attorney docket/reference number is 3105-048.

A fee payment in the amount of \$100 will be submitted with the form, representing payment for 1 class(es), plus any additional grace period fee, if necessary.

Declaration

Unless the owner has specifically claimed excusable non-use, the owner, or its related company, is using the mark in commerce on or in connection with the goods and/or services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /Bruce H. Troxell/ Date: 02/25/2008

Signatory's Name: Bruce H. Troxell

Signatory's Position: Attorney

Mailing Address (current):

BACON & THOMAS PLLC
625 SLATERS LN FL 4
ALEXANDRIA, Virginia 22314-1176

Mailing Address (proposed):

Troxell Law Office PLLC
5205 Leesburg Pike, Suite 1404
Falls Church, Virginia 22041

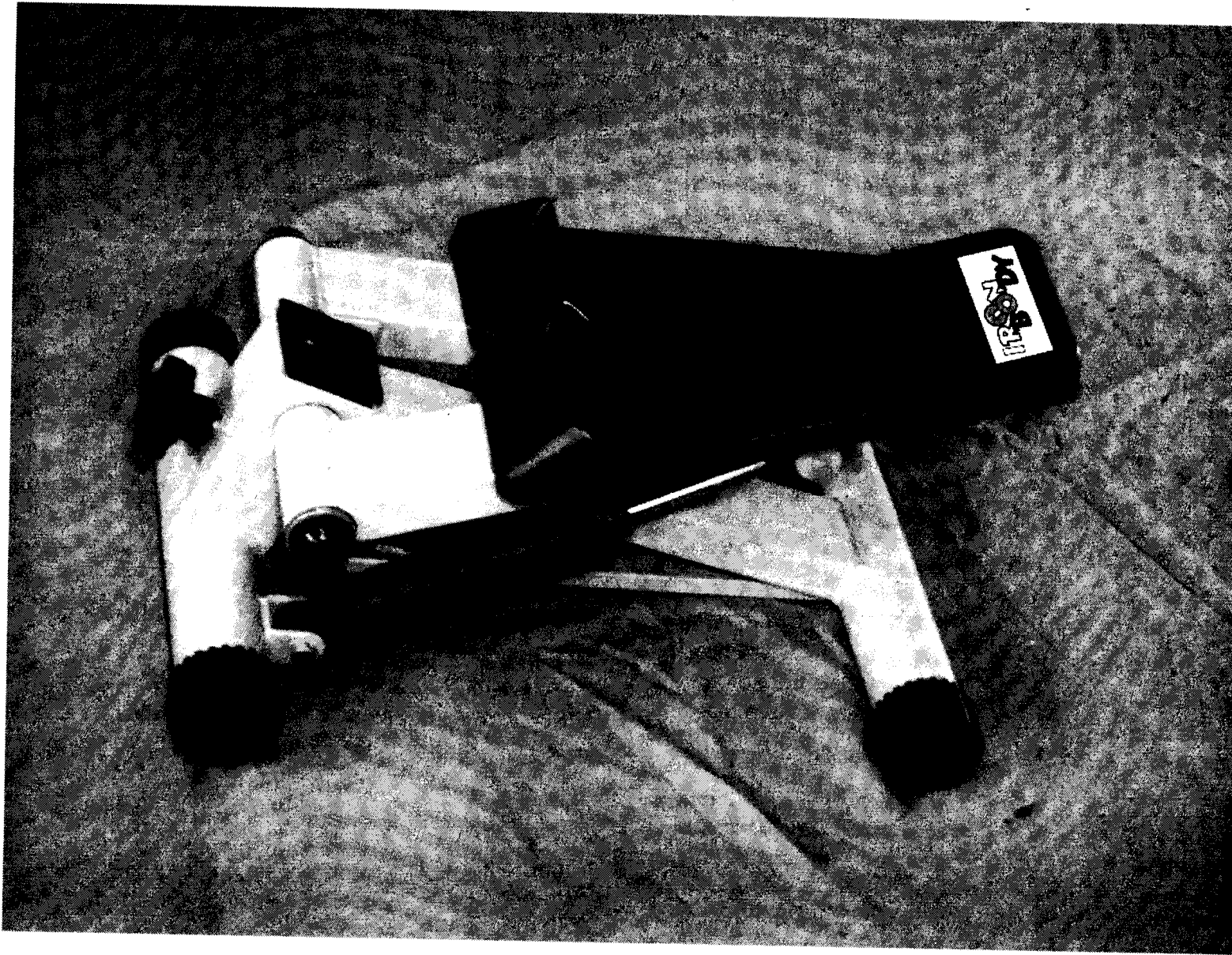
Serial Number: 76235421

Internet Transmission Date: Mon Feb 25 10:55:48 EST 2008

TEAS Stamp: USPTO/SECT08-72.83.177.28-20080225105548

339953-2542903-400674b1e4dbcc58437559e9b

6564ba1c-DA-13472-20080225104825570267



ROUTING SHEET TO POST REGISTRATION (PRU)**Registration Number:** 2542903**Serial Number:** 76235421**RAM Sale Number:** 13472**RAM Accounting Date:** 20080225**Total Fees:** \$100

Note: Process in accordance with Post Registration Standard Operating Procedure (SOP)

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Number of Classes Paid</u>	<u>Total Fee</u>
§8 affidavit	7205	20080225	\$100	1	1	\$100

Physical Location: 900 - FILE REPOSITORY (FRANCONIA)

Lost Case Flag: False

In TICRS (AM-FLG-IN-TICRS): True

Transaction Date: 20080225

Welcome to IRON BODY - Microsoft Internet Explorer

File Edit View Favorites Tools Help



Address <http://www.dbps.com/IRONW208ODY.html>



Go Links

Horton Internet Security

Norton Antivirus

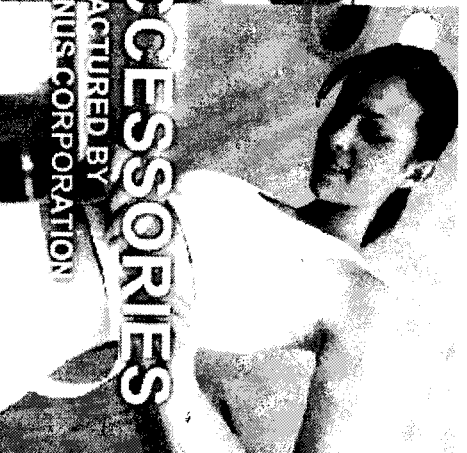
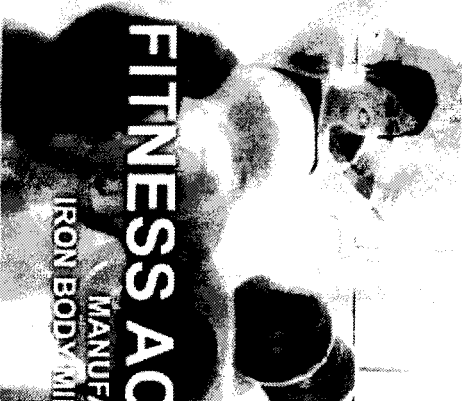
IRON BODY

About us

Products

Research

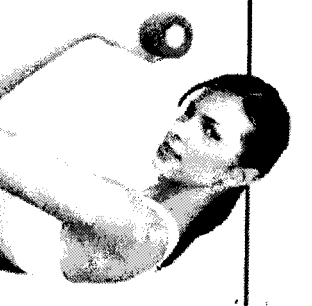
Contact us



FITNESS ACCESSORIES
MANUFACTURED BY
IRON BODY MINUS CORPORATION



Fitness Accessories



Done

start

Inbox - Microsoft Outlook

3 Internet Explorer

2 Microsoft Word

Find

Norton

Internet

1:10 PM

Exhibit D

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File Edit View Favorites Tools Help



Address: <http://www.dalps.com/IRON%20BODY.html>



Go

Links

Iron Body Internet Security

Norton Antivirus



Fitness Accessories

Exercise Equipments

We are seeking for worldwide agents

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start

Inbox - Microsoft Out...

3 Internet Explorer

2 Microsoft Word

Internet

Norton

1:13 PM



Address: <http://www.dalps.com/IRON%20BODY.htm>



Welcome to ironbody.com

Contact Us

Iron

Iron Body Training

Iron body

Healthy body

Body Needs Iron

Iron Body Kung Fu

Vitamin

Iron deficiency anemia

Iron Body Conditioning

Body Zinc

Mineral

Iron Fist Training

Potassium

Fist Strengthen

Iron Blood Cells

Related Searches

Calcium

Iron Body Technique

Herbal supplement

Amino acid

Too Much Iron in Blood

Bodybuilding Supplement

Food supplement

Symptoms of Iron Deficiency

Start

Inbox - Microsoft Outlook

Internet Explorer

Microsoft Word

Internet

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Internet

Exhibit E

[Web](#) [Images](#) [Videos](#) [Maps](#) [News](#) [Shopping](#) [Gmail](#) [more ▾](#)[Web History](#) | [Search settings](#) | [Sign in](#)

Google iron body

Search

[Advanced Search](#)[View customizations](#)[Web](#) [Show options...](#)

Results 1 - 10 of about 69,600,000 for iron body. (0.43 seconds)

[ironbody.org](#)

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[www.eBay.com](#)[See your ad here »](#)

All information about nutrition, diets, workouts, supplements, exercises, and tips on how to improve your **body** shape is FREE ...

[www.ironbody.org/](#) - Cached**Iron: foods, benefits of, function of, iron absorption, types ...**

Iron absorption refers to the amount of dietary **iron** that your **body** obtains ... The actual amount of **iron** your **body** absorbs depends on the amount of **iron** ...

[www.mamashealth.com/nutrition/iron.asp](#) - Cached - Similar**Iron Deficiency Anemia: symptoms, treatment, cause, risks ...**

Iron Deficiency Anemia (also called IDA) is a condition where a person has inadequate amounts of **iron** to meet **body** demands. It is a decrease in the amount ...

[www.mamashealth.com/nutrition/anemia.asp](#) - Cached - SimilarSee results for: [iron body training](#)**Kung Fu Iron Body Training**

Jun 4, 2009 ... **Iron body** refers to a style of **body** conditioning done in some styles of kung fu in order to toughen up the **body** to allow the martial artist ...

[ezinearticles.com/?Kung-Fu-Iron-Body-Training&id=2435913](#)**Stomach Training for Iron Body Kung Fu: Shaolin Iron Skill Kung Fu ...**

Stomach **Training** for **Iron Body** Kung Fu. Part of the series: Shaolin **Iron** Skill Kung Fu. The **Iron Body** skill strengthens stomachs for Kung Fu readiness and ...

[www.ehow.com/video_2354463_stomach-training-iron-body-kung.html](#)**Hard body training - Wikipedia, the free encyclopedia**

Hard body training (also known as **iron body training** or impact conditioning) is a martial arts training method based upon Wolff's law. It is similar to Iron ...

[en.wikipedia.org/wiki/Hard_body_training](#)**News results for iron body****Chef murdered wife and dumped body in wheelie bin** - 5 hours ago

A chef who killed his wife with a cast-**iron** pan and hid her **body** in a freezer for three years was today jailed for life. Peter Wallner murdered his wife ...

[The Guardian](#) - 155 related articles »Exhibit F

[Fighting Off Your Fatigue - CBS News - 2 related articles »](#)
[Antony Gormley blinds viewers with brilliance in new London show - The Guardian - 15 related articles »](#)

Video results for **iron body**



Iron body
 8 min - Feb 18, 2008
www.youtube.com



Wudang Iron Body(hard qigong)--Bend the spear ...
 1 min 47 sec - Jul 24, 2007
www.youtube.com

Facts About **Iron**

Feb 18, 2010 ... About 15 percent of your **body's iron** is stored for future needs and ...
 Heme **iron** is absorbed very efficiently by your **body** (1,3-4). ...
ibdcrohns.about.com/cs/nutrition/a/fdairon.htm - Cached - Similar

Human iron metabolism - Wikipedia, the free encyclopedia

The human **body** needs **iron** for oxygen transport. That oxygen is required for the production and survival of all cells in our bodies. ...
en.wikipedia.org/wiki/Human_iron_metabolism - Cached - Similar

Iron and your body - myDr.com.au

Iron deficiency can be due to inadequate amounts of **iron** in the diet and **body** stores, or to insufficient numbers of blood cells - anaemia.
www.mydr.com.au > Women's Health - Cached - Similar

Iron90

Ironbody Lifestyle Fitness (TM), LLC is the world leader in delivering individualized programs that combine heart rate training with customized meal plans ...
www.iron90.com/ - Cached - Similar

Ferritin, the Iron-Storage Protein

Ferritin is the protein within the **body** that stores **iron** and releases it through ... Hence, ferritin can control the amount of available **iron** in the **body**, ...
www.chemistry.wustl.edu/~edudev/.../Ferritin/Ferritin.html - Cached - Similar

Iron

A well-balanced diet contains sufficient **iron** to meet **body** requirements. About 10% of the normal 10 to 20 mg of dietary **iron** is absorbed each day, ...
library.med.utah.edu/WebPath/TUTORIAL/IRON/IRON.html - Cached - Similar

Amazon.com: **Iron Gym Total Upper Body Workout Bar: Sports & Outdoors**

Strengthen your back, biceps, and other upper **body** muscles in the comfort of your living room or dorm with the **Iron Gym** workout bar. ...
www.amazon.com > ... > Pull-Up Bars - Cached - Similar

Searches related to **iron body**

[symptoms of iron deficiency anemia](#)

[iron red meat](#)

[iron deficiency body](#)

[iron fortified cereals](#)

[iron vitamin c](#)

[diet iron](#)

[iron absorption body](#)

[iron oxygen transport](#)

1 2 3 4 5 6 7 8 9 10

[Next](#)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing PETITION TO CANCEL U.S. Reg. No. 2,542,903 (and Exhibits) was mailed on June 4, 2010, first-class postage prepaid, to the following addresses...

1. Last owner address of record for Respondent

DALPS & LEISURE PRODUCTS SUPPLY CORPORATION
10F-1 & 10F-2, NO. 130, SEC. 2 CHUNG HSIAO E. RD.
Taipei, TAIWAN

2. Last attorney of record for Respondent

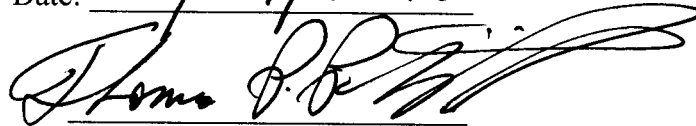
Troxell Law Office PLLC
Attn: Bruce H. Troxell, Esq.
5205 Leesburg Pike, Suite 1404
Falls Church, VA 22041

3. Original Domestic Representative for Respondent

BACON & THOMAS, PLLC
Attn: Thomas J. Moore, Esq.
625 Slaters Lane, 4th Floor
Alexandria, VA 22314

Date:

06/04/2010



Thomas P. Philbrick, Esq.